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UNCLAS SECTION 01 OF 02 ANKARA 006390

SIPDIS

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E.O. 12958: N/A

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SUBJECT: INVESTMENT DISPUTES: PROGRESS FOR CARGILL/ADM,
UNCERTAINTY FOR MOTOROLA

REF: ANKARA 5879

¶11. (SBU) Summary: The GOT announced October 9 that it will will increase the quota for non-sugar sweetener producers to 15 percent of the total sugar quota for the year that began September 1, which means Cargill and ADM can avoid potentially ruinous production cuts. Cargill, however, is still awaiting government action on a proposed legislative amendment to resolve its zoning problem. Motorola executives are cautiously optimistic that the government's actions against the Uzan family have increased prospects for steps that would result in at least partial payback of the sums owed to the company. Although the Prime Minister told Brent Scowcroft recently that he wants to resolve this dispute, and company representatives are in substantive discussions with AK Party officials, there remain a number of difficult obstacles in the way of a solution. End Summary.

¶12. (SBU) Cargill advised us late October 8 that the Council of Ministers had decided to increase the quota for non-sugar sweetener producers to 15 percent of the total sugar quota for the year that began on September 1. This decision, which came despite loud public protests by Turkish sugar beet farmers, means in effect that Cargill and ADM will not have to cut back production to potentially ruinous levels, at least this year. (Note: Turkey's Sugar Law limits non-sugar sweetener production to 10 percent of the annual sugar production quota, which is set by the Sugar Board; however, the law authorizes the Council of Ministers to adjust the quota up or down by as much as five percentage points.)

3, (SBU) Unfortunately, progress on Cargill's other issue -- a dispute over its zoning -- has been slower. Despite repeated promises by Industry Minister Ali Coskun to forward to the Council of Ministers a legislative amendment that would, in effect, grant Cargill (and others) an exemption from the law against industrial production on Class I agricultural land, the amendment has yet to move forward. During a meeting early last week between senior Cargill executives and the Prime Minister, Minister Coskun again promised that the draft law would be on the PM's desk within a week. As of COB October 9, it had not left the Industry Ministry.

¶14. (SBU) Meanwhile, Motorola executives and locally-hired lawyers have been talking with Turkish officials on the infamous Telsim case. The discussions began in earnest in July, when Motorola executives met with Turkish officials to see if the government's actions against the Uzans (first seizing their electricity companies and then taking over their bank) might create an opportunity for progress. At that time, Transportation and Communication Minister Yildirim told them that the government was seeking legal justification to act against Telsim, but stressed that the government would act carefully and according to the law. The company also had extensive discussions with Erdogan advisors Cuneyd Zapsu and Reha Denemec, who also gave positive signals on the government's desire to resolve the problem in a way that enhanced the foreign investment environment.

¶15. (SBU) In a September 30 meeting with Brent Scowcroft, PM Erdogan made positive noises about resolving Motorola's problems, and also talked at length about the Uzans. Other GOT and AK Party officials suggested to Motorola executives that the government was looking at two possible approaches: having the Telecommunications Authority cancel Telsim's license (for various contractual violations), and then selling the company's assets to another telecom company, with

the proceeds used to pay down the Uzan's obligations; or, because of the huge hole found in the Uzan's Imar Bank, using the banking law to seize Telsim, with its license intact, install new management, and work out a deal for the newly-structured company to begin paying off the Uzan's huge debts.

16. (SBU) In an October 8 meeting with EconCouns, Reha Denemec suggested the most likely approach was to work through the Telecom Authority. Denemec stressed, however, that the government had no authority to influence or force a decision on the Authority, which by law is an independent regulatory body, and that he therefore had no idea if it would act. Denemec acknowledged that other approaches, such as using the Banking Law, were possible, but did not elaborate. (Note: Using the Banking Law would mean going through BRSA, which also is an independent agency.)

17. (SBU) Comment; Although the Uzans' troubles have created an opportunity for progress, and the government appears serious about trying to resolve Motorola's problems, significant obstacles stand in the way of a resolution of this case. Perhaps the biggest problem is that the Uzans owe huge sums to many institutions -- including, because of the Imar Bank scandal, to the Savings Deposit Insurance Fund -- and all of the creditors are looking at Telsim as the best potential source of repayment. Motorola presumably would claim preference among creditors, since it is owed money directly by Telsim, not by other companies within the Uzan group, and its contract with Telsim included the right to more than 60 percent of the company's share in the event of a payment default. Still, it might prove awkward for the GOT to agree to a deal that results in Motorola being paid but Turkish depositors (i.e. the Savings Deposit Insurance Fund) not being paid by the Uzans. Also, while action by the Telecom Authority is apparently the cleanest approach from a legal perspective, most experts believe cancellation of Telsim's license would not contribute to a solution, because it would weaken -- and perhaps kill -- the one Uzan asset that appears capable of repaying at least some of the family's obligations. Embassy will continue to press GOT officials to find a solution that is satisfactory to Motorola and enhances the overall investment environment.

EDELMAN